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Preface

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PREFACE

Clients, governmental agencies, and injured third parties are increasingly holding lawyers accountable for misconduct. This accountability is often for conduct that does not constitute negligence, the traditional basis of attorney liability in clients' malpractice suits. Accordingly, this symposium addresses issues beyond traditional legal malpractice and covers a broader spectrum of lawyer accountability.

The symposium is introduced by Ronald E. Mallen, coauthor of the widely acclaimed text, *Legal Malpractice* (West 1977). In his introduction Mr. Mallen defines legal malpractice, distinguishing it from other types of attorney accountability. Following the introduction is an article by Richard D. Bridgman, a specialist in plaintiffs' tort litigation, on the elements of a plaintiff's case in a legal malpractice action. Mr. Bridgman discusses both the substantive law and the mechanics of preparing and conducting malpractice litigation.

Securities law is an area fraught with pitfalls for the practitioner. Attorneys dealing with securities are accountable to investors, to the Securities and Exchange Commission, to disciplinary agencies, and to their clients. Jeffrey M. Smith, an attorney with experience in both securities and legal malpractice litigation, discusses how law firms can establish procedures to minimize their exposure to liability in the securities field.

Professor Charles W. Wolfram, of the University of Minnesota School of Law, argues for use of the ABA Code of Professional Responsibility, traditionally a disciplinary code, as a standard for measuring liability in civil litigation against attorneys. Professor Wolfram proposes that courts shun rigorous distinctions between bases of lawyer accountability, transposing the disciplinary norms for conduct onto the field of private litigation. Professor Nathan M. Crystal, who teaches Professional Responsibility at the University of South Carolina School of Law, surveys ethical problems in marital practice. Using the Code of Professional Responsibility as his primary authority, he points out areas of

danger peculiar to this area of practice. Jack S. Nordby, a specialist in criminal defense and lawyer discipline, focuses on attorney accountability to disciplinary agencies, emphasizing the defenses available in disciplinary actions. The symposium concludes with a case comment on first amendment protection for attorney advertising in the form of private mailings.

The articles presented in this symposium reflect the variety of vehicles for attorney accountability. Attorneys now are held accountable to a wide range of individuals and agencies for all misconduct; legal malpractice litigation is but a part of the growing exposure that attorneys face. This symposium should aid attorneys not only in prosecuting or defending actions against other lawyers, but in recognizing and protecting against liability in their practices, and understanding the underpinnings of their own accountability.